DATE: **October 18, 2011**

TO: **MHP, Serna (if project is subject to Area Median Income based household income and/or rent limits) and TOD Housing Project Sponsors/Borrowers**

FROM: **Russ Schmunk, Assistant Deputy Director**
Division of Financial Assistance

SUBJECT: **Guidance On How HCD Determines MHP Income and Rent Limits**

This memo provides guidance on how to determine which income and rent limits apply to projects funded by any of the Multifamily Housing Programs (MHP), the Serna Program (projects with Area Median Income (AMI) based household income and/or rent limits identified in the HCD Regulatory Agreement), and the TOD Housing Program. This guidance is necessary because of statutory changes regarding how income limits are calculated and a new system of holding income and rent limits harmless. Under the new rules, two-bedroom 50% units in adjacent projects in the same county may have different limits; therefore, the determination of which limits apply must be made on a project-by-project basis.

BACKGROUND

Projects funded under HCD's newer programs are underwritten and managed in part by following the MHP Regulations, which follow Internal Revenue Service (IRS) Tax Credit rules with regard to income and rent limits. Since some HCD funded projects are not funded with Tax Credits, HCD cannot follow the exact letter of the Tax Credit rules; therefore, Tax Credit rules will be emulated in determining income and rent limits for non-Tax Credit projects.

Beginning May 14, 2010, HUD's Tax Credit income and rent limits are subject to a 5% annual maximum increase/decrease. The 2011 limits for Tax Credit projects were lower in *8* of California's 58 counties. Prior to May 14, 2010 various hold harmless policies prevented income and rent limit reductions. Declining rent limits can jeopardize project feasibility by reducing project rental income. To counteract this, IRS rules allow for a "rent floor election" under which rent limits relied on at underwriting for Tax Credit projects (and applied similarly by HCD for non-Tax Credit projects) are held harmless at the highest level achieved. The result is that specific project rent limits do not decrease from the initial "rent floor election" date.

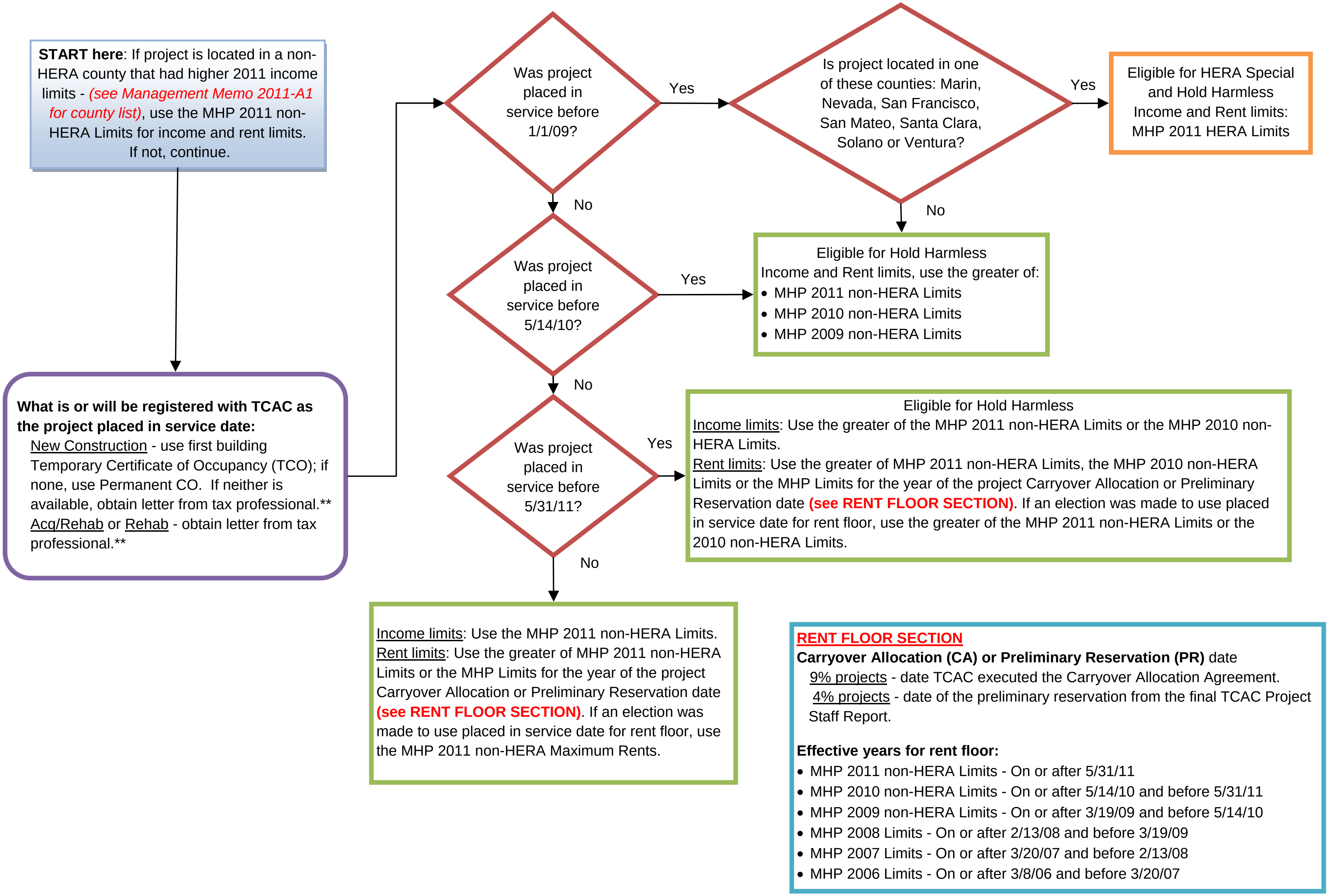
HCD PROCEDURES

Projects located in any of the following counties must use the *MHP 2011 non-HERA limits*: *Alameda, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Los Angeles, Madera, Mariposa, Mendocino, Merced, Modoc, Mono, Napa, Placer, Sacramento, San Luis Obispo, Santa Cruz, Shasta, Sierra, Siskiyou, Sonoma, Sutter, Tehama, Trinity, Tulare, Tuolumne or Yuba.* Note: these are non-HERA counties that had higher 2011 limits compared to 2010 and 2009.

Projects in the remaining counties, may determine the initial income and rent limits for a project or report its annual Schedule of Rental Income, by using the attached Flowcharts to determine the appropriate income and rent limits. The first flowchart is for TCAC projects, the second one is for non-TCAC projects. If you have any questions, contact your Program Representative.

Attachments

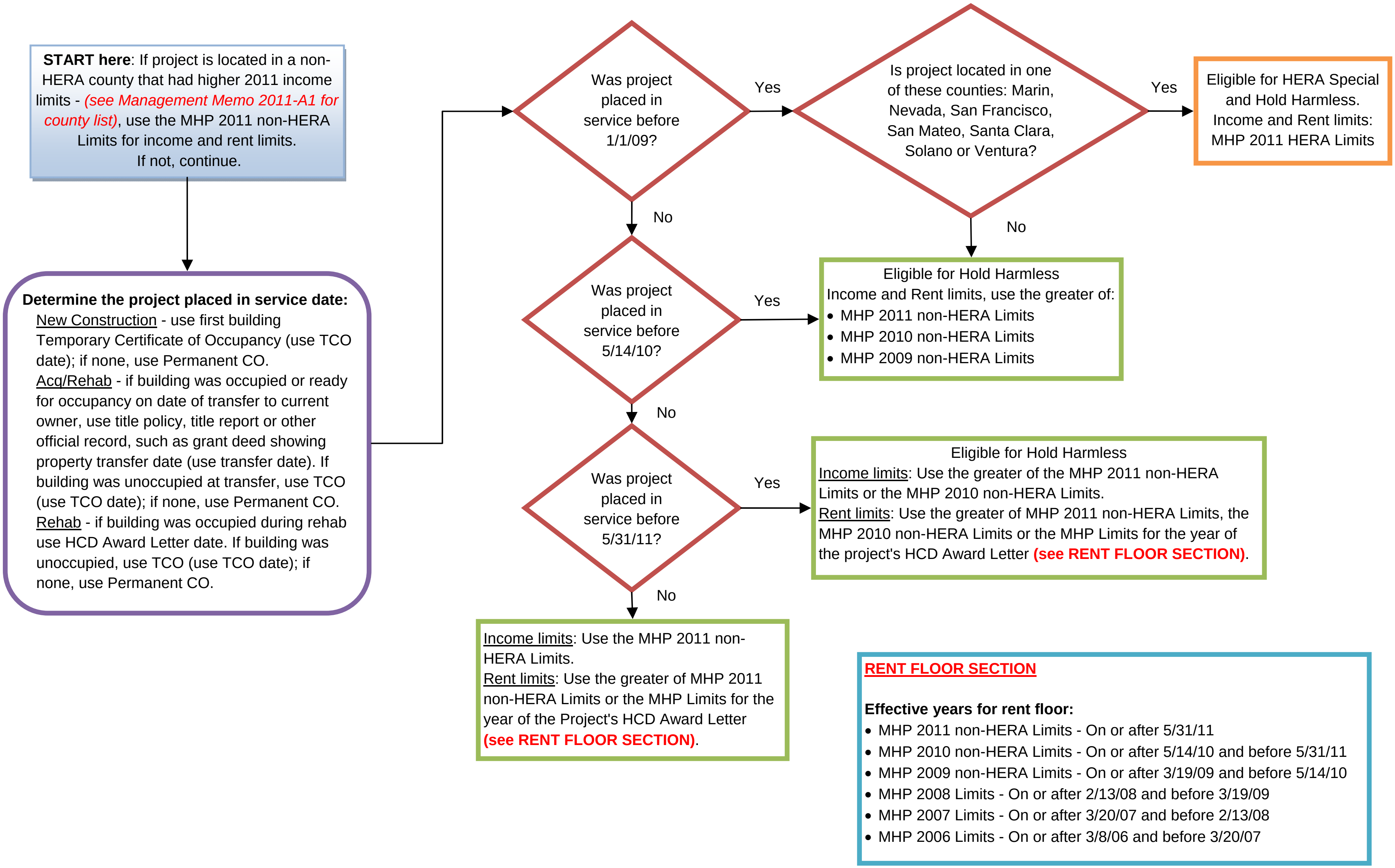
Flowchart To Determine Project 2011 Income and Rent Limits



**Sponsor's tax professional letter must state the project's placed in service date and explain how it was determined.

NOTE: These flowcharts (10/18/11) are intended as a guide on how HCD determines Income and Rent Limits. HCD recommends that Sponsors/Borrowers obtain professional tax and accounting advice regarding appropriate dates and Income and Rent Limits.

Flowchart To Determine Non-TCAC Project 2011 Income and Rent Limits



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